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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/761,612	01/21/2004	Manabu Yamazoe	B984-072	3508
26272	7590	01/07/2008		
COWAN LIEBOWITZ & LATMAN P.C. JOHN J TORRENTE 1133 AVE OF THE AMERICAS NEW YORK, NY 10036			EXAMINER BURLESON, MICHAEL L	
			ART UNIT 2625	PAPER NUMBER
			MAIL DATE 01/07/2008	DELIVERY MODE PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

## Office Action Summary

**Application No.**

10/761,612

**Applicant(s)**

YAMAZOE ET AL.

**Examiner**

Michael Burleson

**Art Unit**

2625

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 05 October 2007.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1-21 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-21 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some \* c) ☐ None of:
- ☒ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- |  |   |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892)                     | 4) <input type="checkbox"/> Interview Summary (PTO-413)           |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____                                      |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)          | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date _____  | 6) <input type="checkbox"/> Other: _____                          |

## **DETAILED ACTION**

### ***Response to Arguments***

1. Applicant's arguments filed 10/05/2007 have been fully considered but they are not persuasive.
2. Applicant states that the reference of Atkins et al. fails to teach of extracting the set number of images based on the evaluations that are set by the user and are recognized by the device and of extracting of the images in any particular order (Applicants remarks page 10) Examiner disagrees with Applicant. Atkins et al. teaches of organizing images in chronological order or grouping (column 3, lines 4-22), which would read on extracting images in any particular order. Atkins et al. teaches that a user can define a template such that a set number of images can fit on a page (column 3, lines 52-60), which would read on extracting a set number of images based on evaluations set by a user and recognized by the device.
3. Claims 1-21 are rejected.

### ***Claim Rejections - 35 USC § 102***

1. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States

only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

2. <sup>KW</sup> Claims 1-2 are rejected under 35 U.S.C. 102(e) as being anticipated by Atkins et al. US 7148990.
3. Regarding claim 1, Atkins et al. teaches an image extracting method of extracting images from a plurality of images, comprising: a setting step of setting a number of images to be extracted from the plurality of images according to a user operation (column 3, lines 52-60); a recognition step of recognizing evaluations for the plurality of images, the evaluations being set by a user (column 3, lines 52-67); and an extraction step of extracting the set number of images from the plurality of images based on the recognized evaluations (column 4, lines 30-38).
4. Regarding claim 2, Atkins et al. teaches input step comprises sequentially inputting the evaluations for respective ones of the plurality of images (column 5, lines 20-24).
5. Regarding claim 3, Atkins et al. teaches wherein the evaluations are input in chronological order (column 5, lines 26-32).
6. Regarding claim 4, Atkins et al. teaches wherein said input step comprises inputting an instruction for image correction processing including an image correction, in addition to inputting the evaluations (column 5, lines 1-5).
7. Regarding claim 5, Atkins et al. teaches an album creation step of creating a photo album by arranging the extracted images on each page of the photo album (column 5, lines 51-56).

8. Regarding claim 6, Atkins et al. teaches of arranging the extracted images on each page of the photo album based on the recognized evaluations (column 5, lines 63-65).
9. Regarding claim 7, Atkins et al. teaches a division step of dividing the plurality of images into a plurality of groups (column 5, lines 65-67) and wherein said extraction step comprises extracting at least one image from images belonging to each of the groups into which the plurality of images are divided and executing the extraction of the images until a number of images extracted from all the groups reaches to the set number (column 6, lines 4-13).
10. Regarding claim 8, Atkins et al. teaches wherein said division step comprises designating a group to which each of the plurality of images is to belong and carrying out the division according to the designated group (column 6, lines 4-11).
11. Regarding claim 9, Atkins et al. teaches wherein said division step comprises dividing the images according to times of creation of the images (column 3, lines 9-12 and column 6, lines 4-11).
12. Regarding claim 10, Atkins et al. teaches an extraction number input step of inputting a number of images to be extracted from each of the groups into which the plurality of images is divided (column 5, lines 64- column 6, and lines 1-4).
13. Regarding claim 11, Atkins et al. teaches of an album creation step of creating a photo album by arranging images extracted from each of the groups into which the plurality of images is divided on each page of the photo album (column 5, lines 64- column 6, and lines 1-4).

14. Regarding claim 12, Atkins et al. teaches wherein said album creation step comprises arranging the extracted images from each of the groups into which the plurality of images is divided on each page of the photo album based on the input evaluations (column 3, lines 9-12 and column 6, lines 4-11).

15. Regarding claim 13, Atkins et al. teaches wherein said album creation step comprises arranging the extracted images from the groups into which the plurality of images are divided on pages of the photo album based on the groups into which the plurality of images are divided (column 3, lines 9-12 and column 6, lines 4-11).

16. Regarding claim 14, Atkins et al. teaches wherein said input step further comprises inputting an initial evaluation value intermediate between a highest evaluation value and a lowest evaluation value (column 5, lines 5-9).

17. Regarding claim 15, Atkins et al. teaches further comprising an input step of inputting a user's setting of the evaluations for the plurality of images and wherein said recognition step comprises recognizing the evaluations based on the user's setting input in said input step (column 3, lines 52-60 and column 4, lines 34-38).

18. Regarding claim 16, the method of claim 1 performs all of the structural elements of claim 16. Thus, claim 16 is rejected for the same reasons discussed in the rejection of claim 1.

19. Regarding claim 17, Atkins et al. teaches of a computer-readable storage medium storing a program for causing a computer to execute an image extracting method of extracting images from a plurality of images (column 2, lines 67 – column 3, lines 1-3), the image extracting method comprising: a setting step of setting a number

of images to be extracted from the plurality of images according to a user operation (column 3, lines 52-60); a recognition step of recognizing evaluations for the plurality of images, the evaluations being set by a user (column 3, lines 52-67 and column 4, lines 35-39) and an extraction step of extracting the set number of the images from the plurality of images based on the recognized evaluations (column 4, lines 30-38).

20. Regarding claim 18, Atkins et al. teaches an image extracting method of extracting images from a plurality of images, comprising: a setting step of setting a number of images to be extracted from the plurality of images (column 4, lines 30-38), a recognition step of recognizing evaluations for the plurality of images, the evaluations being set by a user (column 5, lines 52-67) and an extracting step of extracting the set number of the images from the plurality of images in descending order of the recognized evaluations (column 3, lines 4-13 and column 6, lines 4-11).

21. Regarding claim 19, Atkins et al. teaches an image extracting apparatus that extracts images from a plurality of images, comprising: a setting device adapted to set a number of images to be extracted from the plurality of images (column 4, lines 30-38), a recognition device adapted to recognize evaluations for the plurality of images, the evaluations being set by a user (column 5, lines 52-67) and an extracting device adapted to extract the set number of the images from the plurality of images in descending order of the recognized evaluations (column 3, lines 4-13 and column 6, lines 4-11).

22. Regarding claim 20, Atkins et al. teaches of a computer readable medium storing a program for causing a computer to execute an image extracting method of extracting a predetermined number of images from a plurality of images (column 2, lines 67 –

column 3,lines 1-3), the program comprising: a setting step of setting a number of images to be extracted from the plurality of images (column 4,lines 30-38), a recognition step of recognizing evaluations for the plurality of images, the evaluations being set by a user (column 5,lines 52-67) and an extracting step of extracting the set number of the images from the plurality of images in descending order of the recognized evaluations (column 3,lines 4-13 and column 6,lines 4-11).

23. Regarding claim 21, Atkins et al. teaches wherein said extracting step comprises eliminating an image, the recognized evaluation of which is lower than a specific evaluation, from extracting, even where the total number of the extracted images does not reach to the set number (column 6,lines 4-15)

### ***Conclusion***

24. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of



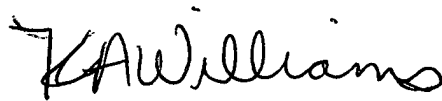
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the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

1. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Michael Burleson whose telephone number is 571-272-7460. The examiner can normally be reached Monday through Friday from 8:30 A.M. to 5:00 P.M.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Twyler Haskins can be reached on 571-272-7406.



KIMBERLY WILLIAMS  
PRIMARY PATENT EXAMINER

Michael Burleson

Patent Examiner



December 24, 2007